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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,729	02/12/2001	Thomas E. Vass	P-4425.003	8003

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EXAMINER

SUBRAMANIAN, NARAYANSWAMY

ART UNIT PAPER NUMBER

3624

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/781,729

**Applicant(s)**

VASS, THOMAS E.

**Examiner**

Narayanswamy Subramanian

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 20-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) 20-25 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This office action is in response to Applicant's communication dated January 10, 2005. Election of claims 1-19 with traverse by the Applicant is acknowledged. Claims 20-25 are withdrawn from consideration as being drawn to the non-elected group. Applicants in replying to this office action are respectfully advised to cancel the non-elected claims. Elected claims 1- 19 have been examined. The objections and rejections are stated below.

#### ***Drawings***

2. This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

#### ***Information Disclosure Statement***

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Specifically references cited on pages 9 and 10 have not been considered. Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

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5. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 cites the limitation "using a regional metropolitan industry-to-industry Internet electronic commerce website". However it is not clear how the website is used making the claim vague and indefinite. Also the phrase "to update technical coefficients in a regional econometric input-output model", in the same claim, is an intended use and hence not given patentable weight. For a limitation to be given patentable weight the limitation must be positively claimed. Claims 2-19 are rejected because they depend on rejected claim 1. In claims 10 and 11 the phrase "on a temporary basis" is vague and indefinite. Clarification/correction is required. Also in claims 14, 15, 18 and 19 it is not clear as to what the applicant means by the term "allowing". The metes and bounds of the term "allowing" are not clear. Appropriate clarification/correction is required.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. § 101 reads as follows:

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title".

7. Claim 1 is rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

35 USC 101 requires that in order to be patentable the invention must be a "new and useful process, machine, manufacture, *or* composition of matter, *or* any new and useful improvement thereof" (emphasis added).

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Claim 1 is rejected under 35 U.S.C. § 101 because; the claimed invention is directed to a non-statutory subject matter. Specifically the method claims as presented do not claim a technological basis in the pre-amble and the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore non-statutory under 35 U.S.C. 101. In contrast, a method claim that includes in the body of the claim structural / functional interrelationship which can only be computer implemented is considered to have a technological basis [See Ex parte Bowman, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) - used only for content and reasoning since not precedential].

In order to over come the 101 rejection above, the following preamble is suggested: "A computer implemented method of promoting commerce ..." or something similar. Also, in the body of the claim include structural / functional interrelationship which can only be computer implemented.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin et al (US Patent 6,141,653).

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With reference to claim 1, Conklin teaches a method of promoting commerce comprising: using a regional metropolitan industry-to-industry Internet electronic commerce website (See Conklin Abstract and Column 18 lines 12-15).

With reference to claims 2-19, Conklin teaches the steps of continuously updating said electronic commerce website (See Conklin Column 20 lines 19-22 and Column 21 lines 42-45) wherein using a regional metropolitan industry to industry Internet electronic commerce website comprises accepting orders from industries through the website (See Conklin Column 14 lines 3-5, participants are interpreted to include industries also); wherein using a regional metropolitan industry to industry Internet electronic commerce website comprises tracking transactions between industries on the website (See Conklin Column 14 lines 5-6, participants are interpreted to include industries also); establishing an industry to industry electronic commerce web site for a particular region (See Conklin Column 18 lines 12-15); comprising converting transaction data derived from said tracking into a regional input-output matrix of technical coefficients (Old and well known); recording transactions that occur between businesses on the electronic website (See Conklin Column 14 lines 21-25 and Column 18 lines 66-67); identifying new businesses in new industrial sectors based on said tracking (See Conklin Column 30 lines 5-10) and monitoring said new businesses in a specific region (See Conklin Column 19 lines 45-51); storing inter-industrial purchase and sales transaction data on a temporary basis in a website host computer (See Conklin Column 14 lines 21-25, transaction data for the community is interpreted to include inter-industrial purchase and sales transaction data); collecting and storing data from single transactions between firms on a temporary basis on the website host computer (See Conklin Column 14 lines 21-25); transmitting

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data from the website host computer on a plurality of businesses in a plurality of sectors to a computer database (See Conklin Column 14 lines 21-25); collecting, storing, aggregating and analyzing data on multiple transactions that occur over a fixed time interval stored in said computer database (See Conklin Column 20 lines 55-63 and Column 34 lines 5-9); allowing single buyers and single sellers to meet and negotiate terms and conditions of a transaction on said website (See Conklin Abstract); tracking transactions entered into as a result of said allowing single buyers and single sellers to meet and negotiate terms and conditions of a transaction on said website (See Conklin Abstract); allowing multiple buyers and multiple sellers to post fixed prices for fixed quantities to consummate a transaction on said website (See Conklin Column 20 lines 24-34); tracking transactions entered into as a result of allowing multiple buyers and multiple sellers to post fixed prices for fixed quantities to consummate a transaction on said website (See Conklin Column 20 lines 24-34 and Column 19 lines 44-47); allowing an auction exchange market to occur on said website (See Conklin Column 20 lines 25-34) and tracking transactions entered into as a result of said allowing an auction exchange market to occur on said website (See Conklin Column 19 lines 44-47, tracking activity is interpreted to include tracking transactions).

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

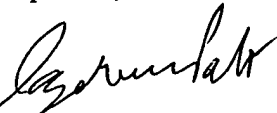
(a) McNicoll et al "Empirical Applications of Regional Input-Output Analysis: A Case Study of Shetland", The Journal of the Operational Research Society, Vol. 31, No. 11 (November 1980) pages 983-991.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (571) 272-6747. The fax phone number for the Patent Office where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

N. Subramanian  
April 27, 2005



Jagdish N. Patel  
Primary Examiner